

LABOUR DEPARTMENT

The 26th November, 1981

No. 9(1)81-6Lab. 13458.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s. Shree Industries, Sector 6, Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.
Reference No. 117 of 1978

Between

SHRI RAMJI KAMTI, WORKMAN AND THE MANAGEMENT OF M/S SHREE INDUSTRIES, SECTOR 6, FARIDABAD.

Present :

Shri S. R. Gupta, for the workman.

Shri R. C. Sharma, for the management.

AWARD

By order No. ID/FD/648/78/17195, dated 4th May, 1978, the Governor of Haryana referred the following dispute between the management of M/s Shree Industries, Sector 6, Faridabad and its workman Shri Ramji Kamti, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Ramji Kamti was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties following issue was framed:—

- (1) Whether the termination of services of Shri Ramji Kamti was justified and in order? If not, to what relief is he entitled?

And the case was fixed for the evidence of the management, who examined Shri R. C. Sharma as MW-1. The workman examined himself as his own witness. The parties had closed their case on the vires of the enquiry but there was no such issue, therefore, they were again called to lead their remaining evidence. The parties made statements closing their case on merits. Arguments were heard. Now I give my finding on the issue:—

ISSUE NO. 1 :

MW-1 stated that he was appointed Enquiry Officer,—vide Ex. M-3 to enquire into the charges

levelled in charge-sheet Ex. M-2. The enquiry was common for three workers, namely, Shri Ramji Kamti, Shri Kanwal Dev and Shri Bhagwan. Ex. M-4 was the enquiry proceedings. He further stated that in the beginning all the workmen participated in the enquiry but at the time of recording of evidence of Shri C. R. Kothari, the other workmen left the enquiry except Shri Braham Dev. Finding of the enquiry was Ex. M-5. Original enquiry proceedings were placed in the file reference number 75 of 1977 of Labour Court, Rohtak. Ex. M-6 and M-7 were certified copies of statement recorded in that case. Ex. M-8 was certified copy of the order of Labour Court, Rohtak. In cross-examination he stated that Model Standing Orders were applicable to the concern. He could not tell if the workman had protested his appointment as Enquiry Officer. He further stated that list of management witnesses was not supplied to the workman before the enquiry, nor copies of documents were given. No past record of the workman was produced before him in the enquiry. He denied the suggestion that the workman had left the enquiry in protest because the evidence was not being recorded properly. He further stated that Ex. M-10 and M-11 were produced during the course of enquiry.

WW-1 stated that he was served a charge-sheet. He did not receive any notice to participate in the enquiry. In cross-examination he replied that enquiry was held against him in which Shri Bhagwan and Kanwal Dev were also involved. They had attended the enquiry. He further admitted that allegation of go-slow was levelled against him. In re-examination he stated that the Enquiry Officer had asked him to sign a blank paper which he had refused. He stated that his address was c/o Shri S. R. Gupta and at that he lived in Cutto colony Mujeshar. In cross-examination he admitted that he did not make any complaint about this fact to the authorities. He admitted that Shri Kothari, Shri Avasthi and Shri Parmar were present in the enquiry and they had told certain things to the Enquiry Officer which were recorded. He remained in the enquiry for about 1½-2 hours.

The learned representative for the management argued that the enquiry was upheld by the Presiding Officer, Labour Court, Rohtak in reference number 75 of 1977 in which Shri Bhagwan, Kanwar, workman, was involved. He further argued that the dismissal was passed on enquiry finding. The workman had participated in the enquiry. On the other hand Shri S. R. Gupta, learned representative for the workman,

argued that the enquiry was not held according to the principles of natural justice. He assailed the order of Labour Court, Rohtak, on the ground that the present workman was not a party in that case. He referred to clauses of the Model Standing Orders and argued that Model Standing Orders were not complied with by the management. He contended that dismissal order and charge-sheet were not signed by the proper authority. He also argued that punishment was disproportionate to the charges. He cited 1976 I LLN 242, 1978 Lab. I.C. page 89 and 1978 I LLN page 190. In reply, the learned representative for the management argued that employer was not defined in the Model Standing Orders. The Manager had signed for the management and there was no infirmity. He also argued that there was no pleading regarding defects pointed out by the representative of the workman regarding enquiry.

I have gone through the enquiry file and other records produced by the management. The enquiry was conducted by Shri R. C. Sharma, Enquiry Officer, who has given his finding Ex. M-5. In this enquiry the concerned workman, Shri Bhagwan, Kamal Dev and Braham Dev, four workmen were involved. According to Ex. M-8, the order passed by the Presiding Officer, Labour Court, Rohtak, in reference number 75 of 1977. The enquiry was held to be proper. In that case I find that Shri S. R. Gupta, represented for the workman and Shri R. C. Sharma, the management. The contention of Shri S. R. Gupta that this order cannot operate as resjudicata against Shri Ramji Kamti has force because the later was not a party to the prior proceedings. As regards the enquiry, I find that all the workmen presented themselves but later on withdrew from the proceedings except Shri Braham Dev. The concerned workman who appeared as WW-1 has admitted the holding of enquiry. He has also admitted the presence of Shri Kothari, Shri Avasthi and Shri Parmar and admitted that they had made their statements before the Enquiry Officer, therefore, the factum of enquiry is proved. The Enquiry Officer had recorded the statement of Shri C. R. Kothari, S. B. Parmar and Shri Uttam Chand in addition to Shri Babu Lal, Tara Chand and Bharat Singh and the finding is based on the statements of these witnesses.

The Enquiry Officer was empowered to proceed ex-parte under clause 20(2)(a) of the Model Standing Orders. As regards the signatory of the charge-sheet I find that in the above clause it was the satisfaction of the employer to suspend a workman. A charge-sheet is to be served within a week of the suspension order. I do not think any illegality in signing the charge-sheet by the Manager. Because in the Standing Order the word employer or management appears in various clauses and they acted through same executive, who can be called a Manager, Secretary or by other name. Second show-cause notice was sent by registered A.D. post on the address which was admitted correct by the workman and the same was received back undelivered for the non-availability of the addressee. This formality was, therefore, also completed by the management.

I have already held the enquiry to be proper. By the finding of the enquiry the workman was adjudged guilty. The charges were of intentional indulging in go-slow tactics, to pressurise the management. This activity hits very foundation of the industry as loss of production may ultimately jeopardise the financial position and ultimate closure of the industry for which nobody will benefit. Therefore, I do not find any justification in interfering in the punishment awarded to the workman. This issue is decided in favour of the management.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

Dated 24th October, 1981.

M. C. BHARDWAJ,

Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.

No. 1000, dated 2nd November, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer, Industrial
Tribunal, Haryana, Faridabad.